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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

NOE ARIAS-ORDONEZ,

Defendant.

No. CR 07-0738 MMC

**DECLARATION OF OWEN
MARTIKAN SUPPORTING THE
UNITED STATES' OPPOSITION TO
MOTION TO DISMISS**

Date: April 2, 2008

Time: 2:30pm

Place: Courtroom 7, 19th Floor

I, Owen Martikan, hereby declare as follows:

1. I am an Assistant United States Attorney in the United States Attorney's Office assigned to the prosecution of this case. I am competent to make this declaration and have personal knowledge of the following facts.

2. Attached hereto as Exhibit A is a true and correct copy of a Deportation Hearing Notice from the Immigration Court files pertaining to Noe Arias-Ordonez, and a certification to its authenticity from the Department of Justice Executive Office for Immigration Review.

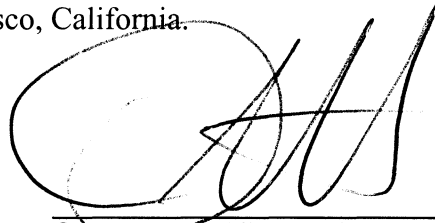
MARTIKAN DECL. RE: OPPOSITION TO MTD
CR 07-0738 MMC

1 3. I received a copy of the documents in defendant Noe Arias-Ordonez's
2 Immigration Court file from the Department of Justice Executive Office for Immigration Review
3 via fax on Friday, March 14, 2008 (they were apparently sent to me after 9:00pm the previous
4 evening). That same day, I produced a copy to defense counsel via hand delivery. I have never
5 received a request for these documents from defense counsel, and only ordered the documents
6 after defendant raised the issue of his first deportation in his motion to dismiss.

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8 I declare under penalty of perjury according to the laws of the United States of America
9 that the foregoing is true and correct to the best of my knowledge and belief.

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11 Executed March 19, 2008, at San Francisco, California.

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OWEN P. MARTIKAN
Assistant United States Attorney

EXHIBIT A

NOTICE OF HEARING IN REMOVAL PROCEEDINGS
IMMIGRATION COURT550 KEARNY ST., SUITE 800
SAN FRANCISCO, CA 941083
6/6/03 *MD*RE: ARIAS-ORDONEZ, NOE
FILE: A79-637-965

DATE: Mar 13, 2003

TO: ARIAS-ORDONEZ, NOE
P O BOX 1060
BOYES HOTSRING, CA 95416

Please take notice that the above captioned case has been scheduled for a MASTER hearing before the Immigration Court on Jun 6, 2003 at 1:30 P.M. at:

550 KEARNY ST., 7TH FLOOR, ROOM 703
SAN FRANCISCO, CA 94108

You may be represented in these proceedings, at no expense to the Government, by an attorney or other individual who is authorized and qualified to represent persons before an Immigration Court. Your hearing date has not been scheduled earlier than 10 days from the date of service of the Notice to Appear in order to permit you the opportunity to obtain an attorney or representative. If you wish to be represented, your attorney or representative must appear with you at the hearing prepared to proceed. You can request an earlier hearing in writing.

Failure to appear at your hearing except for exceptional circumstances may result in one or more of the following actions: (1) You may be taken into custody by the Immigration and Naturalization Service and held for further action. OR (2) Your hearing may be held in your absence under section 240(b)(5) of the Immigration and Nationality Act. An order of removal will be entered against you if the Immigration and Naturalization Service established by clear, unequivocal and convincing evidence that a) you or your attorney has been provided this notice and b) you are removable.

IF YOUR ADDRESS IS NOT LISTED ON THE NOTICE TO APPEAR, OR IF IT IS NOT CORRECT, WITHIN FIVE DAYS OF THIS NOTICE YOU MUST PROVIDE TO THE IMMIGRATION COURT SAN FRANCISCO, CA THE ATTACHED FORM EOIR-33 WITH YOUR ADDRESS AND/OR TELEPHONE NUMBER AT WHICH YOU CAN BE CONTACTED REGARDING THESE PROCEEDINGS. EVERYTIME YOU CHANGE YOUR ADDRESS AND/OR TELEPHONE NUMBER, YOU MUST INFORM THE COURT OF YOUR NEW ADDRESS AND/OR TELEPHONE NUMBER WITHIN 5 DAYS OF THE CHANGE ON THE ATTACHED FORM EOIR-33. ADDITIONAL FORMS EOIR-33 CAN BE OBTAINED FROM THE COURT WHERE YOU ARE SCHEDULED TO APPEAR. IN THE EVENT YOU ARE UNABLE TO OBTAIN A FORM EOIR-33, YOU MAY PROVIDE THE COURT IN WRITING WITH YOUR NEW ADDRESS AND/OR TELEPHONE NUMBER BUT YOU MUST CLEARLY MARK THE ENVELOPE "CHANGE OF ADDRESS." CORRESPONDENCE FROM THE COURT, INCLUDING HEARING NOTICES, WILL BE SENT TO THE MOST RECENT ADDRESS YOU HAVE PROVIDED, AND WILL BE CONSIDERED SUFFICIENT NOTICE TO YOU AND THESE PROCEEDINGS CAN GO FORWARD IN YOUR ABSENCE.

A list of free legal service providers has been given to you. For information regarding the status of your case, call toll free 1-800-898-7180 or 703-305-1662. *YOU MUST BRING PHOTO IDENTIFICATION TO ENTER THE BUILDING.*

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: MAIL (M) PERSONAL SERVICE (P)
TO: ☒ ALIEN ☐ ALIEN c/o Custodial Officer ☐ ALIEN's ATT/REP ☒ INS
DATE: 3-13-03 BY: COURT STAFF [Signature] V3
Attachments: ☒ EOIR-33 ☐ EOIR-28 ☐ Legal Services List ☐ Other

MEI

**U.S. Department of Justice**

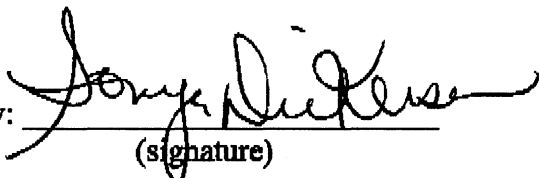
Executive Office for Immigration Review

Office of the General Counsel

*5107 Leesburg Pike, Suite 2600
Falls Church, Virginia 22041*RE: Noe Arias-OrdonezA# 79 637 965I, Sonya Dickerson, declare as follows:

1. I am employed as a Paralegal Specialist at the Executive Office for Immigration Review ("EOIR"), United States Department of Justice, Falls Church, Virginia. I am authorized to certify the authenticity of copies of audio tapes and/or documents on file at the Board of Immigration Appeals and/or the Immigration Court.
2. The attached documents are true, correct, and complete copies of the originals maintained in the Record of Proceeding in the above-referenced case.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed by:  on: 3/18/08
(signature) (date)